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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,884	07/21/2003	Rickey D. Hart	INNO-4 CON 8	6383
7590	03/08/2006		EXAMINER	
Mark J. Pandiscio Pandiscio & Pandiscio 470 Totten Pond Road Waltham, MA 02451-1914			THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/623,884	HART, RICKEY D.	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 December 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2 and 4 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Dec. 23, 2005 has been entered.

Claims 1, 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (2,137,710) in view of Yoon (5,226,426). As to claim 1, Anderson, in figure 4, discloses a device which is inherently capable of grasping thin cord-like objects comprising hollow rigid shaft (the portion of shaft 10 which is distal to flange 26), solid rod (the distal portion of plunger 27), first and second wire-like elements 14, 15, the first wire-like element defining a hook-shaped configuration (as best seen in the embodiment of figure 3), and actuation means comprising a housing (the portion of shaft 10 which is proximal to flange 26), trigger 28 pivotally attached to the housing (at 30) and piston (the proximal portion of plunger 27) which is spring biased by spring 28. Anderson fails to show the distal end of hollow shaft 10 as being pointed. However, Yoon teaches that the distal end of a hollow shaft 32 of a surgical

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instrument should be pointed (at 46), noting col. 5, lines 4-13, apparently in order to obtain the advantage of easily penetrating tissue. It would have been obvious to make the Anderson hollow shaft 10 pointed so that it too would have this advantage. As to claim 2, the distal end of the Anderson shaft 10 is curved (in the circumferential direction) since the cross-section of the shaft 10 is circular. As to claim 4, Anderson fails to disclose the object being grasped by the wire-like elements 14, 15 as being thin and cord-like. However, it is old and well known in this art that thin and cord-like objects (such as sutures and body conduits) are needed to be grasped by surgical forceps in order to manipulate them. It would have been obvious to use the Anderson forceps to grasp thin and cord-like objects for this reason.

Applicant's arguments with respect to claims 1, 2 and 4 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can

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be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

mht
3/2/06



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731